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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,419	10/17/2003	Jonathan E. Rich	GP-302793	2212

7590 02/15/2005

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EXAMINER

PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,419

Applicant(s)

RICH ET AL.

Examiner

Dennis H. Pedder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/09/04 & 1/19/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 19-24 is/are allowed.
- 6) ☒ Claim(s) 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/9/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: Page 9, first full paragraph, "4" is an error for --4A--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Omarain in view of any one of Wycech, Emmelmann et al., Schoen et al., Hopton et al., Czaplicki, or Czaplicki et al..

Omarain shows the hollow frame member 1 which supports roof and door structure, the member having lateral openings and a duct 4, the duct having openings aligned with the frame

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member openings at 7, 7'. Omarain does not detail any cellular structure between duct and frame member wall, a well known expedient in this art in order to secure within a hollow frame member as detailed by any one of the above references, who each teach the structural enhancement and securement of such a connection. It would have been obvious to one of ordinary skill to provide in Omarain cellular structure between frame and duct in order to provide enhanced rigidity as well as sound enhancements as taught by the numerous references above.

As to claim 7, member 1 is a pillar, the duct is an HVAC duct. Omarain shows outlets aligned. Inlets aligned with pillar openings are common knowledge in the art to ventilate the interior.

As to claims 8 and 12, these materials are of common knowledge in the art, obvious to use for their known properties. For example, steel forms a strong frame member, a resinous duct does not corrode, and polyurethane forms a strong structural foam.

As to claim 10, while the foams of the secondary references incorporate adhesives, the addition of commercially available expandable adhesives as listed on page 8 of the specification would only enhance adhesion, hence is deemed to be an obvious expedient.

Allowable Subject Matter

4. Claims 1-5, 19-24 are allowed.
5. The following is a statement of reasons for the indication of allowable subject matter:
The prior art of record does not detail the claimed vertical and horizontal pillar sections with

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corresponding openings and a duct within the pillar having inlet and outlet aligned with the corresponding openings in the vertical and horizontal sections.

Response to Arguments

6. Applicant's arguments filed 2/7/2005 have been fully considered but they are not persuasive as to claims 6-12 above.

Note that "polyamie", claim 20 is apparently an error for --polyamide--.

Applicant's arguments are logically presented through the argument that Pasch and Dausch have no teaching of the cellular structure. However this was admitted in the office action. If that teaching had been present, these references would have been effective under 35 USC 102, not 35 USC 103. The reason a host of references were applied was to help insure that applicant did not continue to claim subject matter that was in the public domain at the time of filing, the host of references illustrating that this technique is well known in the art. The argument deteriorates after that point in that the statements assert that the secondary references have no teaching of a duct within a frame member or pillar. However that is why they were secondary references and not 102 references. Motivation for the combination is well explained above and obvious to one of ordinary skill in the art.

As applicant continues to claim that which is in the public domain, he may appeal if he so chooses as the claims have been rejected twice.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn-D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dennis H. Pedder
Primary Examiner
Art Unit 3612

2/11/05

DHP
2/11/2005